

Skillinvest

Equal Employment Opportunity (Discrimination, Harassment, Bullying and Victimisation) Policy

Version:	2016-01
Last Review:	December 2016
Next Review:	June 2018
Review Frequency:	Biennial
Approval:	Any updates or amendments to this policy must be approved by the Skillinvest Board of Directors



skillinvest

SKILLINVEST LIMITED
EQUAL EMPLOYMENT OPPORTUNITY (DISCRIMINATION, HARASSMENT, BULLYING & VICTIMISATION)
POLICY

This policy covers Skillinvest Limited (Skillinvest) businesses and their departments, including Longerenong College.

Skillinvest is committed to improve workplace diversity and equity and to achieve equal representation of women and men across the workplace. The organisation undertakes and is committed to establishing proactive strategies and targets to ensure diversity and equity in the workplace.

Introduction:

Skillinvest aims to provide equality of opportunity to all employees, and aims to ensure the workplace is free from all forms of discrimination, harassment, sexual harassment, bullying and victimisation (collectively “**Unacceptable Behaviour**”).

Our objective is to create and sustain a work environment that supports and assists each individual to reach their maximum potential. Skillinvest will aim to achieve this objective by taking steps such as educating and training employees, as well as monitoring behavior and endeavouring to prevent any disputes occurring.

Unacceptable Behaviour is unlawful pursuant to State and Federal legislation. Under that legislation, Skillinvest must take reasonable steps to provide a workplace that is free from Unacceptable Behaviour. Employees also have an obligation not to engage in unlawful Unacceptable Behaviour.

Application

This policy applies to all workers, including full-time, part-time and casual employees, as well as temporary staff, contractors and consultants employed or engaged by Skillinvest. The policy also applied to visitors and other personnel present on Skillinvest work premises or using its facilities with its employees, contractors or consultants. Volunteers at Skillinvest have different levels of protection from discrimination as defined by state and federal law. The policy applied at all time where this is a relevant connection with the workplace, and is not restricted by hours of work or other time or place considerations. For example, the policy applies to work related functions including social functions that are held outside the workplace and outside of work hours.

Equal opportunity applies to all aspects of the employment relationship, including: recruitment, promotion, employee benefits, conditions of employment, remuneration, transfer, discipline, training, work environment, supervision, and termination of employment.

Policy

1.1.1 Responsibility

All workers have a responsibility to treat colleagues, customers, visitors and anyone else present at or associated with the workplace, with fairness, dignity and respect, and understand and comply with this policy, so that the working environment is free from Unacceptable Behaviour.

Managers are also responsible to:

- Lead by example, model appropriate behavior and ensure that they do not engage in Unacceptable Behaviour;
- Promote this policy within their work area and act upon any Unacceptable Behaviour in breach of this policy;
- Provide guidance and information about options available to workers when approached; and
- Treat all complaints seriously and take prompt steps to resolve any complaints made under this policy. This may include referring the matter to the CEO where appropriate.

1.1.2 Discrimination

What is Discrimination?

Skillinvest is committed to maintaining a workplace that promotes equal opportunity for all who work with Skillinvest. Skillinvest aims to ensure that all decisions about employment (including recruitment, terms and conditions, promotions, leave and training) are made based on merit and do not involve discrimination.

It is unlawful to discriminate against a person on the basis of a range of attributes or personal characteristics protected by law (“**the Attributes**”).

Unlawful discrimination also occurs when there is a **requirement, condition or practice** that is the same for everyone but **disadvantages a person** because they have one or more of the following protected Attributes.

Protected Attributes include, but are not limited to:

- Age;
- Breastfeed status;
- Physical or mental impairment or disability;
- Industrial activity (i.e. being involved with industrial activity or a union);
- Employment Activity (e.g. making a request in relation to employment entitlements);
- Marital status
- Parental status (or status as a carer);
- Political belief or activity;
- Pregnancy;
- Race;
- Religious belief or activity;
- Gender;
- Sexual orientation;
- Medical record;
- Criminal record; and
- Association with anyone who has the above attributes.
- Lawful sexual activity;
- Physical features (e.g. height, weight, hair colour):
- Gender identity (i.e. a person of a particular gender identifying as a member of the opposite gender);

Anti-discrimination legislation prohibits both direct and indirect discrimination:

- Direct discrimination means treating a person with a protected Attribute less favourably than a person who does not have that Attribute in the same or similar circumstances. For example, if an employer does not hire someone because they are a woman. This is direct discrimination.
- Indirect discrimination means imposing or proposing to impose an unreasonable requirement, condition or practice that disadvantages one particular group because of a protected Attribute (such as their race). For example, an employer who requests a person over 180cm tall to do a certain job could be indirectly discriminating against certain groups of people if it can be shown that the job can be done effectively regardless of height.

It is the responsibility of every workplace participant to ensure that he/ she does not engage in unlawful discrimination.

It is important to note that from a legal perspective it is irrelevant whether or not the discrimination was intended.

There are exceptions from anti-discrimination law that may apply in some circumstances – for example, because of the essential requirements of a particular job.

1.1.3 Harassment

What is Harassment?

Harassment occurs when someone engages in **unwelcome conduct that results in a person feeling offended, humiliated or intimidated**, and under the circumstances, it would be reasonable for them to feel this way.

Harassment may occur as a single act or as a series of incidents.

A person unlawfully harasses another person if he or she engages in behaviour that:

- is not wanted or asked for;
- a reasonable person would have anticipated that they may make the other person feel offended, humiliated or intimidated; and
- is because of one of the protected Attributes.

Harassment is unacceptable and constitutes a denial of equality in the workplace.

It is important to note that from a legal perspective it is irrelevant whether or not the harassing behaviour was intended.

Harassment may involve inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence. Behaviours that may constitute harassment include, but are not limited to:

- jokes, innuendo, ridicule or verbal abuse;
- insulting comments or jokes about particular racial groups or that stereotype others;
- gestures, sarcasm, criticism and insults that humiliate others;
- threats;
- sending explicit or sexually suggestive emails; and
- making derogatory comments about someone's race or religion.

Advice or counselling on work performance or work related behaviour is not harassment.

1.1.4 Sexual Harassment

What is Sexual Harassment?

Sexual harassment is any **unwelcome or unwanted sexual behaviour that is likely to make a person feel offended, humiliated or intimidated**.

Sexual harassment can occur at work or outside the workplace and outside normal business hours. Sexual harassment may occur in a single incident or a series of incidents.

Just because someone does not object to the behaviour at the time does not mean that they are consenting to the behaviour.

Sexual harassment can take many forms, it can be physical, written or verbal. Examples of sexual harassment include but are not limited to:

- persistent, unwelcome or even subtle pressures for sexual favours and outings;
- staring or leering at a person or at parts of their body;
- unwelcome patting, pinching, touching or unnecessary familiarity;
- sexually explicit pictures, posters or screen savers;
- sexually explicit telephone calls, letters, faxes, emails or voicemail messages;
- humour such as smutty or suggestive jokes or comments;
- insults or taunts based on sex;
- sexually explicit physical contact; and
- asking intrusive questions about someone's personal life, including their sex life.

Both men and women can be subject to sexual harassment from a person of the same or opposite sex.

Mutual attraction or mutually consenting relationships, whether sexual or otherwise, is not sexual harassment.

Sexual harassment is unlawful in the workplace, which includes any place a person goes for the purpose of carrying out any function in relation to their work. The workplace can also extend to social functions, for example Christmas parties, team dinners, conferences and business trips.

Some types of sexual harassment can also be offences under criminal law, such as:

- physical molestation or assault;
- indecent exposure;
- sexual assault;
- stalking; and
- obscene communications.

1.1.5 Bullying

What is Bullying?

Bullying is not acceptable in the workplace. It is a significant occupational health and safety issue as it can cause harm to a person's health and well being, both physical and psychological.

Workplace bullying occurs when:

- an individual or a group of individuals **repeatedly behaves unreasonably** towards a
- worker or group of workers at work; and
- the **behaviour creates a risk to health and safety.**

Repeated behaviour refers to the persistent nature of the behaviour and can refer to a range of behaviours over time.

Unreasonable behaviour is behaviour that a reasonable person, having regard to the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Risk to health and safety means the possibility of real danger to health and safety, not just actual danger.

The following types of behaviour, where repeated or occurring as part of a pattern of behaviour as described above, could be considered to be workplace bullying:

- physical or verbal abuse;
- intimidation;
- unjustified criticism or complaints;
- excessive scrutiny at work;
- 'defriending' a worker on Facebook;
- posting photos or making comments on social media about another employee;
- yelling, screaming or offensive language;
- excluding or isolating employees;
- psychological harassment;
- assigning meaningless tasks unrelated to the job;
- giving workers impossible jobs and/or deadlines;
- teasing, practical jokes or 'initiation' ceremonies;
- deliberately changing work rosters to inconvenience particular workers; and
- undermining work performance by deliberately withholding information vital for effective work performance.

Other types of behaviour may also constitute bullying.

What is **not** Bullying?

Managing workers does not constitute bullying, if it is reasonable and done in a reasonable manner. Managers have the right, and are obliged to, manage their workers. This includes directing the way in which work is performed, undertaking performance reviews and providing feedback (even if negative) and disciplining and counselling workers.

Examples of reasonable management practices include:

- setting reasonable performance goals, standards and deadlines in consultation with workers, after considering their respective skills and experience;
- fairly rostering and allocating working hours;
- transferring a worker for legitimate and explained operational reasons;
- deciding not to select a worker for promotion, following a fair and documented process;
- informing a worker about unsatisfactory work performance in a constructive way and in accordance with any workplace policies or agreements.

A single incident of unreasonable behaviour may create a risk to health and safety and has the potential to escalate into bullying. Therefore, it is not acceptable. A worker with a concern about a single incident of bullying-style behaviour may raise this issue with their Manager or with a more senior worker as appropriate.

1.1.6 Victimisation

What is Victimisation?

Victimisation is treating a person unfairly or less favourably because that person, or someone they associate with, has made or intends to make a complaint of Unacceptable Behaviour.

In particular, victimisation occurs if someone suffers unfavourable treatment because they:

- make, or intend to make, a complaint of Unacceptable Behaviour in good faith; or
- provide information or evidence in relation to such a complaint.

Victimisation is unlawful and no action should be taken against anyone for making or helping someone make a genuine complaint.

Procedure

If a worker believes they have been subjected to Unacceptable Behaviour, or are aware of such an incident having occurred, the worker:

1. May, if they feel comfortable doing so, tell the offender that they object to the behaviour and they do not want it repeated;
2. Should raise a formal grievance in accordance with the Grievance & Complaints policy; and
3. Should keep a record of all incidents and possible witnesses.

All complaints will be treated seriously and will be dealt with promptly. Skillinvest will, to the extent possible, keep the matter confidential and protect the privacy of the people involved. The only people who will have access to information about the complaint will be those who have a need to know. This will usually include the person/s against whom the complaint is made, the person/s handling the complaint and any witnesses. Discussions will be held with witnesses to the incident where it is appropriate to do so. Managers must act immediately on any reports of Unacceptable Behaviour.

Skillinvest believes that all complaints and issues of concern should be resolved quickly, confidentially (where appropriate) and wherever possible, at the lowest appropriate level.

No worker will be penalised or disadvantaged as a result of raising legitimate concerns or complaints relating to Unacceptable Behaviour. If, however, a complaint is shown to be vexatious or malicious, disciplinary action may be taken against the person who made the complaint.

While Skillinvest encourages workers to first discuss any concerns they may have with a Skillinvest representative, there are also external bodies that are available to provide advice or assistance. At any time, workers can contact any applicable anti-discrimination or regulatory body. For example, the Victorian Equal Opportunity and Human Rights Commission, Fair Work Commission (FWC) or WorkSafe.

Policy Breach

Any breach of this policy may result in disciplinary action, up to and including termination of employment.

Related Policies

This policy should be read in conjunction with the Grievance & Complaints policy.